



THE CRIMINAL REPLACEMENT OF FINE IN LAW OF MONEY LAUNDERING NUMBER 8 OF 2010 (Case Study in North Sumatera)

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Abstract: This paper initiates a criminal substitute for a fine in Law No. 8 of 2010 concerning money laundering. The research method used in this study is juridical normative. The results of this study indicate that the TPPU Law does not regulate the length of a substitute imprisonment if a fine has been paid in part by a convicted person or corporation. Therefore, the determination of the length of the substitute imprisonment penalty refers to Article 30 paragraph (4) of the Criminal Code. Related to this, the implication of the length of substitute imprisonment penalties that must be served will exceed 1 year 4 months as stipulated in Article 8 of the TPPU Law. Based on several court decisions in North Sumatera, criminal reformulation should be carried out in place of a more appropriate fine in Law No. 8 of 2010 concerning TPPU, namely the taking of assets or income of a convicted person, if it is not sufficient, then the convicted wa jib repay the criminal penalty, and if the convicted person does not pay the criminal penalty in installments, then it is replaced with imprisonment for at least 1 year or can be paid / charged to the criminal heirs and the longest as threatened for a crime that is a crime.

Keywords: Money Laundering, Substitute For a Fine, Heir

I. INTRODUCTION

Criminal fines as regulated in Article 10 of the Criminal Code constitute a criminal form in the form of an obligation to pay a certain amount of money by the convicted person. Provisions regarding criminal fines are regulated in Article 30 and Article 31 of the Criminal Code. Initially the criminal penal provisions in the Criminal Code are very small, therefore it is necessary to change related to this, while the amount of criminal penalties is at least twenty-five cents.

Changes in criminal fines first occurred in 1960 through Perpu No. 16 of 1960 and Perpu No. 18 of 1960. After the issuance of Perpu No. 16 of 1960 and Perpu No. 18 of 1960, all criminal fines were read in rupiah and multiplied fifteen times, so that the minimum general criminal fine of twenty five cents originates to Rp. 3.75 (Wijayanto, 2015). In 2012, the Supreme Court issued Supreme Court Regulation Number 2 of 2012 concerning Adjustment of Limits of Minor Crimes and Amount of Fines.

The article 30 paragraph (2) of the Indonesian Criminal Code explains that if a criminal fine is not paid, it will be replaced with imprisonment. The length of substitute imprisonment as regulated in Article 30 paragraph (3) Criminal Code, at least 1 (one) day and a maximum of 6 (six) months. Article 30 Paragraph (5) explains that if there are criminal penalties for fines caused by concurrent or repetition, or because of the provisions of Article 52, then the substitute imprisonment shall be a maximum of 8 (eight) months.

The Article 8 of Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes (hereinafter this article will use the TPPU Law) explaining that in the event that the assets of the convicted person are not sufficient to pay criminal fines as referred to in Article 3, Article 4, and Article 5, the enda criminal is replaced by imprisonment for a maximum of 1 (one) year 4 (four) months. Criminal substitute fines for corporations are regulated in Article 9 paragraph (2) of the PPU Law which explains that in the case of sale of confiscated corporate assets as referred to in paragraph (1) is inadequate, criminal imprisonment in lieu of fines imposed on Corporate Controlling Personnel takes into account fines that have been imposed get paid.

The TPPU Law there is no provision at all regarding the determination of the length of the criminal substitute for a fine that has been paid in part by the convicted person. Therefore, the determination of the length of the substitute imprisonment penalties refers to Article 30 paragraph 4 of the Criminal Code. When referring to Article 30 paragraph (4) of the Criminal Code, the length of substitute imprisonment for which the penalty has been paid in part by the convict will exceed 1 (one) year 4 (four) months as stipulated in the TPPU Law, and may even be years.

The substitute confinement penalty in the TPPU Law is considered too light and unfair to replace the criminal fines in the TPPU case. This substitute imprisonment penalty is too low, so that the convict will choose to carry out imprisonment rather than pay a very large fine. Therefore, the criminal fines which should be included as non-tax state revenue turn instead to finance the convicted in confinement.

Basically a regulation must be integrated into the law, both law enforcement, legal substance, and the legal culture of the community, so that there is no imbalance between *das solen* and *das sein* (Ali.A, 2009). The theory of criminal law policy basically explains how criminal law can be formulated properly and is able to provide guidance to lawmakers, whose functionalization or operationalization is carried out through the formulation stage (legislative policy), application stage (judicative), and execution stage executive policy (Fitriano, R.A, 2011).

The research on the effectiveness of the application of imprisonment sanctions against children, it can be concluded that the application of imprisonment is said to be effective in terms of being a substitute criminal for fines, but in the case of imprisonment as criminal sanctions that are primair in nature are not so effective (Kaharuddin, 2013).

When compared with Kaharuddin's research, the difference that can be seen is that the subject of the perpetrators is children, whereas in this study the subjects of the perpetrators are people and Corporations that carry out TPPU and do not pay the criminal penalties that have been handed down to him. This study examines the weaknesses of the formulation of imprisonment as a substitute criminal in fines in the TPPU Law, rather than studying the penal imprisonment that is primair applied to children as in Kaharuddin's research.

The purpose of this study is to provide a new formulation of criminal penalties to replace fines that are more appropriate in the TPPU Law by using a penal law policy.

II. RESEARCH METHODS

In this study, the method used is the statue approach. The research specification is analytical descriptive. The type of research used is normative juridical, with data collection techniques using the literature study method. The data that has been obtained is then tested with data triangulation techniques so as to get the data validity. Data analysis method used in this research is to use qualitative methods.

III. WEAKNESSES OF CRIMINAL POLICY IN LIEU OF FINES IN LAW NO. 8 OF 2010

Money laundering (TPPU) is a crime that has become an international concern because it is transnational (Research and Law Center and the Supreme Court of the Republic of Indonesia, 2006). In practice in Indonesia, the pattern (*modus operadi*) of money laundering always continues to develop so that sometimes it causes obstacles to the handling of TPPU cases. The definition of money laundering in Article 1 number 1 of Law no. 8 of 2010 are all acts that meet the elements of criminal acts in accordance with the provisions in this law.

Money laundering is a process, in which way assets, especially cash assets obtained from criminal acts are manipulated in such a way that the assets appear to come from legitimate sources (Halim, 2017). Money laundering is an act carried out to change the proceeds of crime with a view to concealing or disguising the origin of assets so that they appear to be legitimate assets (Ayumiati, 2012) .

Money laundering crimes regulated in the TPPU Law are divided into two types. First, money laundering and second, other crime related to money laundering. The TPPU Law also regulates criminal acts committed by corporations as stipulated in Article 6 of the TPPU Law.

In the TPPU Law there is no difference between "crime" and "violation" of money laundering. The absence of qualifications of "crime" or "violation" will have implications for the application of criminal threats committed. The inclusion of "criminal" or "violation" qualifications in the TPPU Law needs to be done to avoid potential problems that occur at the implementation stage (Putera, D.A, Pujiyono & Sopyonyono, 2013).

The article 8 of the TPPU Law referred to as "convicted" is a convicted individual and does not include a corporate convict imposed with a criminal fine in money laundering as referred to in Article 3, Article 4, and Article 5 of the TPPU Law, because it is regulated in Article 8 TPPU Law is about the implementation of imprisonment as a substitute for fines, even though corporations cannot be imprisoned with imprisonment and in accordance with the provisions stipulated in Article 7 paragraph (1) of the TPPU Law, corporations can only be imposed with fines (Wiyono, R, 2014). Based on the provisions contained in Article 8 of the TPPU Law, then for the imposition of fines in the case of money laundering, the provisions contained in Article 30 paragraph (3) jo. Paragraph 4 of the Criminal Code is not enforced.

The criminal law system in Indonesia there are no provisions regarding the exact deadline when fines must be paid. As a result, the judge does not have the authority to set a time limit when fines must be paid in the verdict, whereas when the implementation of criminal fines must be paid, submitted to the prosecutor as the executor of the fines with a grace period starting from 1 (one) month and extended 1 (one) month in accordance with the provisions of KUHAP Article 270 jo. Article 273 paragraph 1 and paragraph 2 (Nurhayati, 2009).

Juridical consequences if the criminal penalty that has been handed down to the convicted person (person) in the TPPU case is not paid, then the criminal penalty is replaced with a confinement sentence. Based on Article 8 of the TPPU Law which explains that in case the assets of the convicted person are insufficient to pay criminal fines as referred to in Article 3, Article 4, and Article 5, the criminal fines are replaced with imprisonment for a maximum of 1 (one) year 4 (four) months .

In practice, the imposition of fines in TPPU cases is also found in a number of TPPU case decisions, where penalties vary depending on the case being undertaken, but no criminal fines are maximally imposed on TPPU convicts. Some of these decisions can be seen in the table below as follows:

1. Decision of the Medan District Court No. 2953 / Pid.Sus.Mdn, February 1, 2017 which is the verdict of the first tier court which was confirmed by the Decision of the Appellate Level Assembly (North Sumatra High Court No. 208.Pid.Sus / 2017 / PT.MDN Stairs 31 March 2017) that the assembly the appeal judge stated that TJUN HIN alias AHIN had been proven legally and convincingly guilty of committing a crime: without the right and unlawfully accepting or controlling the placement of assets that were known to be the result of a narcotics crime and agreed with the decision of the first year judge. The appellate-level panel of judges will not agree with the sentences, namely convicting the defendant with imprisonment for 2 years and 6 months and a fine of Rp. 1,000,000,000 (1 billion) with the provision that if the fine is not paid it will be replaced with a 4-month prison sentence in which this is seen by the appellate judge as a criminal which is too light. So that the appeals panel of judges improved the Medan District Court No. 2953 / Pid.Sus.Mdn, Date 1 February 2017, namely to sentence the defendant to imprisonment for 5 years and a fine of Rp. 1,000,000,000 (1 billion), if the fine is not paid, it will be replaced with a 4-month prison sentence.
2. Decision of the District Court of Simalungun No. 510 / Pid.Sus / 2017 / PN Sim Date of March 1, 2017, which was confirmed by the decision of the appellate court (Decision of the North Sumatra High Court No. 311 / Pid.Sus / 2018 / PT Medan dated May 17, 2018) that the panel of appeals judges upheld the Decision Simalungun District Court No. 510 / Pid.Sus / 2017 / PN Sim that Tedakwa Brando Sianipar has been proven legally and convincingly guilty of committing narcotic crimes and participating in the transfer of money originating from narcotics crimes and participating in carrying out acts of transfer which he knows or deserves is the result of criminal offenses as referred to in Article 2 Paragraph (1) of RI Law No. 8 of 2010 concerning the eradication of money laundering and imprisonment for 12 (twelve) years and a fine of 1 billion with the provisions that if the fine is not paid then replaced with imprisonment for 3 months.
3. Decision of the Medan District Court No. 2121 / Pid / 2013 / PN Mdn, September 29, 2014 which is the decision of the first-level assembly which was confirmed by the Decision of the Appellate Assembly (North Sumatra High Court No. 740 / PID.SUS / 2014 / PT.MDN Stairs 23 December 2014) that the appeals panel of judges stated that the deliberations and decisions of the first-level panel of judges had been obtained and were correct so that all of the considerations were taken over into the consideration of the high court in deciding and adjudicating this case and the decision of the Decision of the Medan District Court No. 2121 / Pid / 2013 / PN Mdn On 29 September 2014 the appeal requested must be maintained unless it relates to perfecting the formal requirements so that the appellate panel of judges appealed to amend Medan District Court Decision No. 2121 / Pid / 2013 / PN Mdn On 29 September 2014 the appeal was requested only regarding the defendant's identity so that the complete enactment was as follows: stated the defendant MARIA RINA CHRISSANTY SINAGA mentioned above, was proven legally and convincingly guilty of committing falsification of the letter & the crime of laundering money, imposing a criminal sentence on the defendant, therefore with a sentence of imprisonment for 2 (two) years 6 (six) months and a fine of Rp. 100,000,000 (one hundred million rupiahs) if the fine is not paid, it will be replaced with a 1 (month) prison sentence
4. Medan District Court Decision No. 2955 / Pid.Sus / 2016 / PN Mdn, February 1, 2017 which is the decision of the first-level court which was confirmed by the Decision of the Appellate Assembly (North Sumatra High Court No. 209 / PID.SUS / 2017 / PT.MDN Stairs 31 March 2017) that the appeal panel of judges stated that the judgment and decision of the panel of judges agree with the panel of appellate judges but that the panel of appellate judges disagreed with the sentences. The criminal sentence imposed by the first-level panel of judges, namely a prison sentence of 2 years and 6 months and a fine of 1 billion, provided that the fine is not paid, replaced with a four-month prison sentence is seen by the appellate-level panel of judges as too light a crime, weighing banwa the first-level panel of judges should consider matters related to the case in which the defendant is one of the police officers who should have stood at the forefront in the act of eradicating narcotics, but on the contrary it was intended to undermine the role of his own institution, so that the appellate panel improved the court's decision to improve the court's decision medan land no. 2955Pid.Sus / 2016 / PN. Mdn dated February 1, 2017 the appeal was appealed only for the length of imprisonment imposed on the defendant so that the sentence became: declare that the defendant ichwan lubis SH has been proven legally and convincingly after committing a criminal act that is without rights and against the law of accepting or controlling the placement of assets. which he knew was the result of a narcotics crime, sentenced the defendant ichwan lubis to imprisonment for 5 years in prison and a fine of 1 billion provided that the fine was not paid, replaced with 4 months in prison.

As for some of these decisions, it can be seen that the fines imposed ranged from 1 (one) billion to 5 (five) billion rupiah, but it needs to be re-examined that based on the four decisions, it can be seen that if the fines imposed by the convict are not paid) then it is only replaced by a substitute imprisonment for 3 (three) up to 5 (five) months. The imprisonment of substitute confinement in the TPPU Act is still too mild and this causes the criminal fines to appear as if they were running in place, because basically those convicted with the fines will prefer to carry out imprisonment which is only a few months old and in practice is not denied that in carrying out a crime, sometimes the convicted person gets a reduction in carrying out the crime, so as if carrying out imprisonment for only a few months will not be a problem against him.

In contrast to the substitute imprisonment sentence imposed on the convicted person (person) for a maximum of 1 (one) year 4 (four) months, the criminal penalties to replace the fine imposed on the Corporation are regulated in Article 9 paragraph (1) and paragraph (2) of the TPPU Law. Article 9 paragraph (1) of the TPPU Law explains that in the case of Corporations not being able to pay the fines as referred to in Article 7 paragraph (1), the fines shall be replaced by confiscation of Corporate Property or Corporate Controlling Personnel whose value is the same as the penalty of the fines dropped. Article 9 paragraph (2) of the TPPU Law which states that the sale of confiscated Assets as referred to in paragraph (1) is inadequate, imprisonment in lieu of fines imposed on Corporate Control Personnel by calculating the fines paid.

The practice, criminal prosecution of Corporations in TPPU cases in Indonesia has never existed or occurred, this is because the regulation for handling criminal acts committed by Corporations is still inadequate despite the Supreme Court Regulation No. 13 of 2016 concerning Procedures for Handling Cases Criminal Acts by Corporations.

The based on the Regulation of the Attorney General of the Republic of Indonesia Number PER-028 / A / JA / 10/2014 (PERJA), chapter V regarding the implementation of court decisions that explain the crime of money laundering, if the Corporation is unable to pay criminal fines, replaced with the seizure of Assets / Assets belonging to the Corporation or Corporate Management, which have the same value as the fines imposed and if inadequate, imprisonment in lieu of fines imposed on the management taking into account the fines paid. The provisions in this Work are in accordance with Article 9 paragraph (1) and paragraph (2) of the TPPU Law. The length of imprisonment in lieu of fines imposed on Corporate Controlling Personnel is not further discussed in the TPPU Law, but when referring to Article 8 of the TPPU Law then the length of imprisonment in lieu of fines that can be imposed on Corporate Controlling Personnel is not later than 1 (one) year 4 (four) months.

Apart from understanding related to substitute penalties directed against people as referred to in Article 8 of the TPPU Law and criminal substitute penalties against Corporations as referred to in Article 9 of the TPPU Law, it is necessary to understand in depth that of all the provisions in the TPPU Law there is no regulation regarding the determination of the length of the criminal substitute for the fine paid in part by either the person or the Corporation in the TPPU case. Therefore we can refer to the general provisions contained in the Criminal Code based on Article 103 of the Criminal Code.

The article 31 paragraph (2) of the Criminal Code explains that the payment of part of the criminal fines, both before and after starting to undergo a substitute imprisonment, free the convicted person from a portion of imprisonment in proportion to the part he paid. Because there is no regulation to determine the length of substitute imprisonment that must be carried out by the convict either by the person or the Corporate Management Personnel who has paid part of the criminal penalties in the TPPU Law, then the length of imprisonment that must be carried out by the convicted person in the TPPU case who has paid part of the criminal penalty refer to Article 30 paragraph (4) of the Criminal Code by calculating the fines that have been paid.

If we refer to Article 30 paragraph (4) of the Criminal Code, a problem will arise namely the length of substitute imprisonment that must be carried out by a person or Corporate Management Personnel will exceed the provisions referred to in Article 8 of the TPPU Law. year. This is because in the judge's decision the duration of substitute imprisonment is stipulated with the guideline that if the penalty is seven rupiahs and fifty cents or less is calculated one day.

This determination will not be able to be used directly in TPPU work which is basically the maximum fine imposed on people or Corporations in the TPPU Law is far greater than the criminal penalties contained in the Criminal Code. So it can be said that the regulation is only used as an uncertain norm or non-operational norm in its application as a reference for determining the length of substitute imprisonment for which the fine has been partially paid.

Instead of making better criminal legislation in the TPPU Law, the policy formulation in Article 8 and Article 9 paragraph (2) of the TPPU Law still provides legal uncertainty in the determination of the length of substitute imprisonment that must be carried out by a person or Corporate Management Personnel who has paid some of the criminal penalties. Based on the aforementioned matter, in the TPPU Law there are still weaknesses in the criminal formulation policy in lieu of fines so that it is necessary to make a formulation of penal arrangements to substitute fines that are more appropriate in the TPPU Law.

IV. COMPARISON OF PENALTY IN LIEU OF LAW NO. 8 OF 2010 CONCERNING CRIMINAL ACTS OF MONEY LAUNDERING WITH OTHER LAWS

The substitute criminal law regulated in Article 8 of the TPPU Law is different from the criminal substitute regulated in Article 11 of Law Number 15 Year 2002 jo. Law Number 25 of 2003 concerning Money Laundering (Old TPPU Law). If Article 8 of the TPPU Law stipulates that the substitute criminal is in the form of a confinement fund no longer than 1 (one) year 4 (four) months, Article 11 of the Old TPPU Law stipulates that the substitute criminal is in the form of imprisonment for a maximum of 3 (three) years.

In the Old TPPU Law, there is no regulation regarding criminal substitute fines if the Corporation does not pay the criminal fines imposed on him, but according to the author that the substitute criminal penalties in the form of imprisonment for a maximum of 3 (three) years as stipulated in Article 11 of the Old TPPU Law also applies for Corporate Management Personnel in the event that the Corporation does not pay criminal fines.

The comparison between the two articles, when viewed from the criminal system and criminal system, is very much different. In the concept of the severity of a crime, imprisonment is lighter than imprisonment. Therefore it can be concluded that the application of imprisonment as a substitute criminal in a fine in the TPPU Law is lighter than the application of imprisonment as a substitute criminal in a fine in the Old TPPU Law.

The formulation of criminal sanctions policy in lieu of fines in Article 43 paragraph (1) and paragraph (2) of Law Number 13 of 2006 concerning Protection of Witnesses and Victims (PSK Law), explains that in the case of convicts unable to pay criminal fines as referred to in Article 37 Article 38, Article 39, Article 40, Article 41, and Article 42 shall be replaced by a maximum imprisonment of 1 (one) year and a maximum of 3 (three) years and imprisonment as a substitute for the criminal penalty as referred to in paragraph (1) included in the judge's ruling.

Based on the provisions of the article, the substitute criminal penalties contained in the PSK Law are jail sentences for a minimum of 1 (one) year and a maximum of 3 (three) years. The prison sentence in lieu of a fine in the PSK Law is far more severe than the criminal imprisonment for a substitute fine set forth in Article 8 and Article 9 paragraph (2) of the TPPU Law.

Subsequent comparisons can be seen in Law Number 35 of 2009 concerning Narcotics (Narcotics Law). The criminal formulation policy substituting for a fine in the Narcotics Act is regulated in Article 148 which explains that if the criminal penalties as stipulated in this law cannot be paid by non-Narcotics offenders and Narcotics Precursor offenses, the offender is sentenced to a maximum of 2 (two) prison terms. years as a substitute for a criminal penalty that cannot be paid. In Article 148 of the Narcotics Law, regulates imprisonment as a substitute criminal for fines while in Article 8 of the TPPU Law, regulates imprisonment as a substitute criminal for a fine. Therefore, when viewed from the severity of the crime, the criminal substitute fines in the Narcotics Act are more severe than the TPPU Law.

Comparison of the criminal formulation policy in lieu of the last fine, namely in Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning Eradication of Corruption Crimes (Corruption Law). Actually in this Anti-Corruption Act does not regulate criminal provisions in place of fines, but here the author sees a good concept to deter criminal offenders.

The Article 18 paragraph (3) of the Tipikor Law it is explained that in the case of a convicted person having insufficient property to pay the replacement money as referred to in paragraph (1) letter b, the convicted with imprisonment whose duration does not exceed the maximum threat of the principal in accordance with the provisions in this law and the length of the sentence have already been determined in the court's decision.

According to the author, the formulation policy in Article 18 paragraph (3) of the Anti-Corruption Act is very strict, because if a convict does not have sufficient assets to pay for the substitute money then the convicted with imprisonment whose duration does not exceed the maximum threat of the principal in accordance with the provisions of the Act Corruption. When compared with the penal imprisonment in place of a fine as regulated in Article 8 and Article 9 paragraph (2) of the TPPU Law no later than 1 (one) year 4 (four) months, it is clearly seen that the criminal imprisonment in place of a fine is much lighter compared to the application of imprisonment which does not exceed the maximum threat in the Law on Corruption as a form of criminal substitute for compensation money not paid by the convicted person.

Based on the comparison of substitute criminal penalties in the TPPU Law with several other provisions of the law as explained above, it can be concluded that the most widely used substitute criminal penalties are imprisonment as a substitute criminal fine. In the TPPU Law, the formulation of imprisonment criminal policy as a substitute criminal for a maximum of 1 (one) year 4 (four) months is considered too light to replace the criminal penalties stipulated in Article 3 and Article 7 of the TPPU Law, therefore it is necessary to formulate a policy Criminal substitute fines in the TPPU Law are more appropriate, in addition to the problems of the application of the determination of the length of imprisonment in lieu of fines that must be carried out by the convicted person or the Corporation that has paid a portion of the criminal penalty.

Judges as law enforcers have the main duties in the judicial field, namely receiving, examining, deciding, and completing every case submitted to him. In carrying out the tasks of law enforcement and justice, judges have heavy duties and obligations that must be fulfilled in order to achieve the specified objectives of a just and prosperous society (Wijayanto, I, 2012). In dropping a criminal case decision, the judge has different considerations and in this case is casuistic, but this needs to be limited by the existence of definite legal rules as regulated in the law. Legal certainty in substituting criminal penalties in the TPPU Law must be prioritized, so that in practice there is no disparity in the judge's decision that is too lame in determining the length of criminal substitute penalties imposed on convicted in TPPU cases.

V. REFORMULATION OF CRIMINAL LAW POLICY IN LIEU OF FINES

Renewal of criminal law must be carried out with a policy approach, because indeed it is only part of a policy step. In every policy (policy) also contains value considerations. Therefore, reform of criminal law must also be oriented to a value-approach (Arief, BN, 2011). The main purpose of law enforcement is to disable the perpetrators of crime. To achieve these objectives actions that include identifying people suspected of committing a crime, finding and detaining them, collecting evidence, arresting the perpetrators of crime, confiscating the results of criminal acts, and imposing a crime against the perpetrators (Nadelmaan, EA, 1990).

The crime of money laundering is a crime that can damage the joints of community, nation and state life. One common feature in defining money laundering is the transfer of illegal assets into the economic system (Amrani, H, 2014). The motivation to launder money resulting from crime is at least because there are some concerns that the perpetrators will face law enforcement or even the proceeds of the crime will be confiscated (Handoyo, B, 2017).

Based on legal research on the effectiveness of the money laundering law carried out by the Ministry of Law and Human Rights of the Republic of Indonesia through the National Legal Development Agency, it states that there are various interpretations of some formulation of norms in the legislation related to the current TPPU, so that it has not guarantee legal certainty and law order in society. This was also caused by sanctions imprisonment and fines that were felt by the TPPU perpetrators were still light and not detailed (National Legal Development Agency of the Ministry of Law and Human Rights of the Republic of Indonesia, 2011). Considering that there are still weaknesses or deficiencies in the TPPU Law, the TPPU Law needs to be reviewed in order to be completed or adjusted or amended so that the legal regulations in the TPPU field do not cause various interpretations or "legal loopholes" (loopholes)

Legal research on reformulation in lieu of fines in money laundering in Indonesia by Mulio Agung Pradipta and Mulyono states that if it is insufficient (Mulia Agung Pradipta, Pujinono, 2018), the convicted person must repay the criminal penalties, and if the convicted person does not pay the criminal fines by installments, it is replaced with imprisonment of at least 1 year and the longest as threatened with a criminal offense. So this study was reviewed again with the scope in North Sumatra by calling some poetry related to TPPU.

The formulation policy of Article 8 and Article 9 paragraph (2) of the TPPU Law still does not contain consideration of the value of the approach. Every policy must contain value considerations and this value judgment is based on the conviction that the person has committed a crime and the criminal sanction imposed must be matched with the need to protect and defend the interests that exist in society. Therefore it is necessary to change the formulation of a substitute criminal penalty in the TPPU Law through a criminal law policy through a policy approach and value approach. This criminal law policy implies endeavoring or making and formulating a criminal legislation that is better than before in accordance with the present and future conditions.

The formulation policy in Article 8 and Article 9 paragraph (2) of the TPPU Law must include social policy, which consists of policies or efforts for social welfare policy and policies or efforts to protect bro public (social defense policy). In the end, the criminal formulation policy in place of a fine in the TPPU Law is part of social policy, so that efforts to tackle crime through criminal law are an integral part of efforts to protect the community and public welfare.

Tackling crime by using criminal sanctions is the oldest method, as old as human civilization itself. There is also a mention as an older philosophy of crime control (Irawan, A, 2015). In carrying out the legal reform, of course, the main problems of criminal law must be seen, namely "criminal acts" (strafbaarfeit / criminal act / boiled actus), "mistakes" (schuld / guilt / mens rea), and criminal acts straf / punishment / poena (Ridwan, 2013).

If in convicting a substitute criminal for this fine, the convicted person does not have any assets or income at all, then a more appropriate way is the payment of the substitute criminal penalty can be done by charging the heirs and if there is no heir then the

obligation to pay in installments or installments within the period in accordance with the decision of a judge who has permanent legal force.

In the TPPU Law there are no provisions regarding convicted persons who must pay the criminal penalties, therefore it can be concluded that the implementation of criminal penalties in the TPPU case can be paid by someone else voluntarily on behalf of the convicted person. This is in accordance with the opinion of Andi Hamzah who explains that although fines are imposed on convicts personally, there is no prohibition at all if the fines are voluntarily paid by others or other parties and on behalf of the convicted (Hamzah, A & Rahayu, 1993).

Payment in installments or installments is also in accordance with Article 84 paragraph (1) of the Draft Book of the 2015 Criminal Law (RKUHP 2015), which explains that criminal fines can be paid in installments or installments within a period according to the judge's decision. . Payment of criminal fines can be paid by other people, because there is no regulation that stipulates that the convicted person must pay fines imposed on him. Therefore, the payment of criminal fines can be made by convict families who have income or assets to pay off criminal fines that are not paid by the convicted person.

The pattern of criminal substitute for fines by taking assets or income from the convicted person and if the convicted person does not have any assets or income can be done in installments or installments within the specified time period must be prioritized before imposing other criminal sanctions. This is in accordance with the principle in criminal law that a criminal is imposed only as ultimum remedium.

If from all sales of the assets of the convicted person and income of the convicted person that is still insufficient to pay off the criminal fines imposed on him and within the stipulated period in the decision of a judge who has permanent legal force, the convicted person does not pay in installments or pay the criminal fines imposed on him, then another alternative Criminal replacement fines are imprisonment as a substitute criminal fines that are not paid by the convicted person.

The imprisonment convicted as a substitute criminal for this fine is certainly more severe than the criminal imprisonment in place of a fine regulated in the current TPPU Law, judging from the criminal penalties that in Article 10 of the Criminal Code the position of imprisonment is higher than imprisonment. The criminal sequence in Article 10 of the Criminal Code is made according to the severity of the crime, where the heaviest is mentioned first, therefore according to the author, imprisonment is more appropriate as a criminal substitute for a fine in the TPPU Law. Based on this, the authors provide a new formulation that would be more appropriate as a substitute criminal in the TPPU Law. This formulation is formulated in a number of verses as follows, namely:

1. In the event that the convicted person does not pay the criminal fines imposed on him, he is subject to the taking of the assets or opinions of the convicted person in accordance with the fines imposed;
2. If the taking of the assets or income of a convicted person is insufficient to pay a criminal fine, then the convicted person must repay or repay the criminal penalty within the stipulated period of time;
3. In the judge's decision the time period as referred to in paragraph (2) is determined by considering the ability of the convicted person;
4. If the convicted person does not pay in installments or pay the criminal penalties as referred to in paragraph (2) and paragraph (3), then for the criminal penalty that is not paid is replaced with a maximum imprisonment of 1 (one) year and the longest as threatened for a criminal offense concerned.

Penal reformulations that substitute fines are more appropriate in the TPPU Law according to the author are as explained above, with the application of such criminal sanctions, at least it can be more effective in criminal fines than directly imposing criminal deprivation of liberty to convicts proven guilty in TPPU cases.

VI. CONCLUSIONS

In Law No. 8 of 2010 there are no rules regarding the determination of the length of criminal substitute fines that have been paid in part by a person or corporation in a TPPU case. Therefore, its application will refer to Article 30 paragraph (4) of the Criminal Code, in which the length of the substitute imprisonment penalties that must be carried out by a person or Corporate Management Personnel will exceed the provisions referred to in Article 8 of the TPPU Law even the length of the replacement imprisonment penalties will be many years . Based on the comparison of criminal substitute fines in the TPPU Law with the Old TPPU Law, the PSK Law, the Narcotics Law, and the Anti-Corruption Law, it can be concluded that the most widely used substitute criminal penalties are imprisonment as a substitute criminal fine. Criminal reformulation in place of a more appropriate fine in the TPPU Law can be formulated:

1. In the event that the convicted person does not pay the penalty imposed on him, he is subject to the taking of the assets or opinion of the convicted person in accordance with the penalties imposed;
2. If the taking of assets or income of a convicted person is insufficient to pay a criminal fine, then the convicted person is required to repay or pay the criminal penalty within a predetermined period of time or can be paid a criminal fine by the heirs;
3. In the judge's decision the time period as referred to in paragraph (2) is determined by considering the ability of the convicted person;
4. If the convicted person does not pay in installments or pay the criminal penalties as referred to in paragraph 2) and paragraph (3), then the penalties that are not paid are replaced with imprisonment for at least 1 (one) year and the longest as threatened for the relevant criminal offenses .

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